

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

THE COALITION FOR EQUITY)
AND EXCELLENCE IN SOUTH)
CAROLINA HIGHER EDUCATION,)
an unincorporated ad hoc association,)
RICHARD McKNIGHT,)
EVAN WARDLAW,)
TAYLOR HARDING and)
ANTHONY SMITH, all in their)
individual capacities, as a member of)
the aforementioned Coalition, and as)
representative members of all individuals)
similarly situated,)

Plaintiffs,)

vs.)

THE STATE OF SOUTH CAROLINA)
and THE SOUTH CAROLINA)
COMMISSION ON HIGHER)
EDUCATION, an agency of the State of)
South Carolina,)

Defendants.)
_____)

Case No.: 3:15-cv-00667-CMC

**PLAINTIFFS' MOTION TO AMEND
PLEADINGS¹**

PLAINTIFFS, by and through the undersigned attorney, moves the Court pursuant to Rule 15(a), FRCP, for an order allowing them to amend the Summons and Complaint in the above-captioned matter.

The grounds for this Motion are as follows:

¹In the interest of brevity and given the simplicity of this Motion, Plaintiffs incorporate the controlling authorities within this Motion in lieu of filing a separate Memorandum.

1. The expert for the Plaintiffs in the case has rendered an initial report. A copy of this report is attached to the proposed Second Amended Complaint, which is attached to this Motion as Attachment 1.
2. Based upon the report by the Plaintiffs' expert, the undersigned attorney reasonably believes that South Carolina State University is an indispensable party to the action. Therefore, Plaintiffs moves to amend its Summons and Complaint in order to add South Carolina State University as a defendant, with the goal of seeking injunctive relief against the added defendant.
3. The undersigned attorney conferred with opposing counsel before the filing of this Motion. Opposing counsel stated that that he could not consent to the amendment and that he will file an appropriate response to this Motion.
4. At this procedural juncture of the case, Plaintiffs can amend their Complaint with the opposing parties' written consent or by leave of court. *See, Fed. R. Civ. P. 15(a)(1), FRCP*. Plaintiffs were unable to obtain written consent from the parties. Therefore, in order to amend their pleadings for the second time, Plaintiffs must obtain the leave of this honorable court.
5. The court should freely give leave when justice so requires. *Id.* "The federal policy of liberality in permitting amendments to pleadings, as embodied in [Fed. R. Civ. P. 15], is self-evident." *Davenport v. Ralph N. Peters & Co.*, 386 F.2d 199, 204 (4thCir. 1967).
6. [T]he general rule is that leave to amend a complaint under Federal Rule of Civil Procedure 15(a) should be freely given, *see Foman v. Davis*, 371 U.S. 178, 182 (1962), unless "the amendment would be prejudicial to the opposing party, there

has been bad faith on the part of the moving party, or the amendment would have been futile.” *Laber v. Harvey*, 438 F.3d 404, 426 (4th Cir. 2006) (internal quotation marks omitted).” *Steinburg v. Chesterfield County Planning Com’n*, 527 F.3d 377, 390 (4th Cir. 2008).

7. The above-referenced case is in its early procedural stage of discovery. The proposed amended complaint poses no prejudice to the Defendants. The Second Amended Complaint does not change the previous allegations against the named Defendant—it simply seeks to add SCSC as a party defendant. Therefore, Plaintiffs moves the Court to follow the liberal policy of allowing them to amend the Complaint for a Second time, with an Amended Summons being issued to SCSU by the Clerk of the District Court.

WHEREFORE, for the reasons outlined in the above-stated Motion and based upon the cited authority therein, Plaintiffs move the Court for an order allowing them to amend their Summons and Complaint for the second time with the attached proposed Second Amended Complaint.

At Orangeburg, SC

Dated: June 30, 2015

s/Glenn Walters, Sr., Esq
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Attachment 1: Proposed Second Amendment Complaint, with Attachment (Expert’s Vitae and Initial Report)